

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.5942/2018

Payal Sahasram Bisen

...Versus...

M/s Krishna Consultants, through its Authorized Officer, Vipin Mokadam,
Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri Alok Daga, Advocate for petitioner
Shri N.D. Khamborkar, Advocate for respondent no.1

CORAM : AVINASH G. GHAROTE, J.

DATE : 27/03/2023

1. The agreement dated 01/11/2017 contains an arbitration clause 5.2 (pg.34), which was sought to be invoked by the notice dated 20/03/2018 (pg.13). This was replied on 09/04/2018 (pg.17). Thereafter, the respondent no.1, on his own, instead of filing an application under Section 11 (6) of the Arbitration and Conciliation Act, 1996 appointed an arbitrator, which has been challenged.

2. Shri N.D. Khamborkar, learned counsel for the respondent no.1 does not dispute that in case there was a controversy between the parties regarding the appointment of an arbitrator, the course of action, which was to be followed, was filing of an application under Section 11 (6) of the

Arbitration and Conciliation Act and the respondent no.1 could not have directly appointed an arbitrator, in view of which, the appointment of the arbitrator is hereby quashed and set aside and the parties are left to take appropriate proceedings, as permissible in that regard.

3. The writ petition is allowed in the above terms and disposed of accordingly. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar